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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,465	07/08/2003	James M. Koerlin	1-24510	1049

4859 7590 09/22/2004

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EXAMINER


PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/616,465	<b>Applicant(s)</b> KOERLIN, JAMES M.	
	<b>Examiner</b> Hau V Phan	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 6-21 is/are allowed.  
6) ☒ Claim(s) 1-5 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/8/2003</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 7/8/2003 has been considered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koerlin et al. (5,297,021) in view of Littlejohn et al. (5,123,495).**

Koerlin et al. in figures 3 and 7-8, disclose a wheelchair having a primary articulated member (33) and at least one secondary articulated member (307, figure 8). Koerlin et al. also disclose a sensor (321) for detecting the position of the secondary member and a control or a computer (318), which recognizes an upright position and all subsequent recline positions. Koerlin et al. fail to show a primary sensor.

Littlejohn et al. in figures 1-2, teach a wheelchair control system comprising a tilt sensor (24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wheelchair of Koerlin et al. with the addition of tilt sensor as taught by Littlejohn et al. in order to detect an actual tilt of the seat.

Regarding claim 2, Koerlin et al. disclose the controller, which is configured to receive input from the secondary sensors on a continuous basis.

Regarding claim 3, Koerlin et al. disclose the primary member, which is a back frame, with the secondary articulated part being a seat frame.

Regarding claim 4, Koerlin et al. disclose the primary member, which is a back frame, with the secondary articulated part being a leg rest.

Regarding claim 5, Koerlin et al. disclose the primary member, which is a back frame, with the secondary articulated part being a shear plate.

***Allowable Subject Matter***

4. Claims 6-21 are allowed.

The following is an examiner's statement of reasons for allowance.

The prior art does not teach the wheelchair as recited in claims 6 and 14, which include a controller connected to first and second actuators for articulating first and second articulated members, respectively in a coordinated fashion. The controller being programmed with a sequence of setpoints of ordered pairs of numbers, one of the numbers of the ordered pairs being indicative of the position of the first articulated member along a first range. The other of the numbers of the ordered pairs being indicative of the position of the second articulated member along a second range. The wheelchair also includes an input device associated with the controller to provide input from a wheelchair user to the controller. This recitation, in combination with the rest of the recited elements, clearly defines over the prior art.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hester discloses a wheelchair and method of operating same and Watkins et al. disclose an electronic control system for stair climbing vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hau Phan*  
*9/8/04*

Hau V Phan  
Examiner  
Art Unit 3618

**HAU PHAN  
PATENT EXAMINER**